GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Departmental action initiated against Sri E.V.Ramana Murthy formerly MAO, Amudalavalasa, Srikakulam Dist now retired as JDA, Srikakulam on the irregularities committed by him for acquisition of certain properties in the name of the family members and doing business in the name of benami violating the conduct rules,1964 under Rule-20 of A.P.C.S. (CCA) Rules, 1991 – Inquiry Report submitted – Examined – SCN Issued with disagreement factors on the findings of Inquiry Authority – Explanation submitted – Examined and Rejected – Punishment of withholdings 20% cut in pension permanently – Imposed under Rule-9 of APRP Rules, 1980 – Orders – Issued.

AGRICULTURE AND COOPERATION (VIG.I) DEPARTMENT

G.O.RT.No. 335 **Dated: 12-06-2017**
Read the following:-

1. U.O.Note No.478/D2/98-1, Dated: 23.6.1998.
2. Govt.Memo.No.575/Agri.I/98, Dated: 11.5.2000
3. From the DG, ACB,A.P.,Hyderabad,Lr.No.131/RE.VSP/2000.S12. dated:2.2.2002.
4. Rc.No.Estt.VIII(4)101/02, Dated: 15.6.2002 of the C&DA,AP, Hyderabad.
5. From Sri E.V.Remanamurthy,Ex.AO Amudalavalasa, dt. 9.7.2002.
6. Memo.No.575/Vig.I/98-20, Dated: 30.3.2005.
7. G.O.Rt.No.1305, A&C (Vig.I) Dept.,Dated: 30.11.2011.
8. From the COI, D.O.Lr.No.329/COI.LP/2011-1, Dated: 11.5.2012.
9. Govt.Memo.No.575/Vig.I/98, Dated: 26.6.2012
10. From Sri E.V.Ramana Murthy, Ex.AO rep18.2.2013 through C&DA,Hyd.
11. Govt.Memo.No.575/Vig.I/98, Dated: 27.8.2014.
12. Repn of Sri E.V.Ramana Murthy, Ex.AO, Amudalavalasa now rtd as JDA, Srikakulam, dt. 13.12.2014.

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ORDER:-

1. In the reference 1st read above, a petition was received from the G.A. (V&E) Dept. along with a copy of Agrl Subordinate Services, Srikakulam, wherein certain allegations were made against Sri E.V. Ramana Murthy, AO, Amadalavalasa regarding acquisition of certain properties in the name of the family members and doing business by benami names and requested to take action thereon. In the ref. 2nd read above, Government have examined the matter in detail and entrusted the case to the Anti Corruption Bureau for investigation and report. In the ref. 3rd read above, the DG, ACB submitted his report recommending for departmental action against him. Accordingly, the C&DA, Hyderabad initiated disciplinary action vide his proceedings 4th read above by framing the following two charges:-

Charge-I "that the said Sri E.V. Ramana Murthy, A.O. while functioning as AO, Amudalavalsa Srikakulam Dist has acquired and disposed of immovable property in the name of his wife without intimation or prior permission from the competent authority which attracts violation of Rules 9(1) and (3), (2) of APCS (Conduct) Rules, 1964.

Charge-II "that the said Sri E.V. Ramana Murthy, while functioning as AO, Amudalavalasa, Srikakulam Dist has misused his official position in obtaining dealership for distribution of Sprinklers and Drip irrigation system by using of binami names which attracts violation of Rules (1) and (3) of APCS (Conduct) Rules, 1963."

2. In the ref. 5th read above, Sri E.V. Ramana Murthy, submitted his Written Statement of Defence to the charges framed against him and after examination of the reply of the charged officer the case was entrusted to the COI vide refences 6th and 7th read above. Finally Sri Lingaraj Panigrahi, IAS., COI-LP submitted his Inquiry Report vide ref. 8th read above, stating that ,

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In respect of charge No.1, has stated that since the acquisition value of the properties are ranging from Rs.5,670/- to Rs.16,500/- and the C.O., explained that these properties were acquired by his wife funded from her Stree Dhanam and also from income from her agriculture lands, the contention of the C.O., is accepted and the charge of not obtaining prior permission is not held against the Charged Officer.

Regarding 2nd charge, the Inquiry Officer stated that It is true that PW 1,2, and 3 has not spoken anything to support the stand of the disciplinary authority that the C.O., is doing benami business. The documents that are filed speaks about business transactions of Earl Agro Tech, Kranthi Enterprises, Rungta Irrigation and Godavari Polymers. But none of the documents reveals Sri Ramana Murthy has business link with these entities. The exhibit P8 on which the PO is relying to hold the charge is a letter from Span Industrial, Hyderabad to Inspector, ACB, Srikakulam regarding Sprinkler Business done in Srikakulam District by M/s KWH Heliplastics. The Span Industrial in the letter mentioned that quotation and proforma invoice were submitted by E.V.Raman Murthy,AO representing Sri B.V.Ramana Murthy of Sri Sai Enterprises. In the article of charge there is no mention of Span Industrial and Span Industrial in their letter have not stated anything about their business association with KWH Pipe who has supplied Sprinkler to Sri Sai Enterprises. The Span Industrial letter is that saying M/s KWH office was located in their premises and in August 1999 they would up their office and operating from their factory address at Panvel (Maharashtra). The Span Industrial letter was issued on 12-2-2001. As per the letter M/s KWH would up their office from August, 1999, how did Span Industrial which has no business or organic link to KWH in February, 2001 could verify the old records of M/s KWH and confirm that proforma invoice was submitted by E.V.Ramana Murthy. The signatory of this letter was not named as the listed witness. This type of document cannot be relied upon unless its credential is established during the course of inquiry and subjected to scrutiny by the C.O. Hence Exhibit P8 is discarded as unreliable documentary evidence.

3. Therefore, the 2nd charge is also not held proved against the C.O., and finally the I.O., in his findings held that the charges 1 and 2 against Sri E.V.Ramana Murthy as not proved**.**

4. The Government have examined the Inquiry report with reference to the records available have observed and disagreed with the findings of the I.A., with the following disagreement factors:

"The Disciplinary case against Sri E.V. Ramana Murthy, the then Agricultural Officer, Amudalavalsa Srikakulam District is more than a decade old. The Inspector of Police, ACB, who investigated this case is no more. After many years, the COI has concluded the inquiry, however, by returning both the charges as not proved. The reasons on which the I.A. based his findings are appearing untenable.

1. The Rule 9(1) of APCS (conduct) Rules 1964 speaks as following:
"No Government employee shall, except <u>after previous intimation to Government</u>, acquire or dispose of, or permit any member of his family to acquire or dispose of, any immovable property by exchange, purchase, sale, gift or otherwise either by himself or through others."

Thus, the charge 1 which alleged that the Charged Officer acquired and disposed of immovable property in the name of his wife without intimation or prior permission from the competent authority is appearing sufficiently proven. The basic premise on which COI is dismissing the charge 1 are :

(i) As on the date of the transactions i.e. prior to 1992, there was no necessity to obtain prior permission but only a prior intimation was required.

(ii) Since the acquisition value of the properties are ranging from Rs.5,670/- to Rs.16,500/- and that too the properties acquired were out of his wife's Stree Dhanam or from income of her agriculture lands, hence, there was no need to obtain prior permission.

However, the charge 1 alleged that the Charged Officer failed to intimate the Government prior to such transactions. Admittedly the Charged Officer failed to intimate the Government about the transactions. The case law quoted is not appearing relevant to the case.

Seen from this context, the finding of the I.A. is appearing erroneous & hence be differed with and the charge be held as proved.

Charge No.2: It must be recognized that the level and type of evidence required in departmental proceedings is very different from that of criminal proceedings. A preponderance of evidence in favour of the charge is adequate and there is no necessity of proving it beyond any iorta of doubt. In this context the rejection of documentary evidence just because the name is not authenticated by witnesses during the inquiry may not be accepted. Thus the contentions:

i) that the Dealership of Smt. S.Saraswathi, sister of the Charged Officer is only a benami of Sri E.V. Ramana Murthy can not be wished away especially when the address given is as same as that of the home address of the Charged Officer.

(ii) the quotations and proformae invoices signed by the Charged Officer on behalf of the benami dealer can not be ignored. As a result of this, the business turnover of Smt. S. Saraswati was above Rs.60,98,272/- with a commission of Rs.12,31,565/- the deposition of Smt. Saraswati may be seen (exhibit P-12). It is incredible that the company would have paid such an extravagant commission (20.19%) for the kind of services that are entailed by the dealership as per the statement of the alleged benami dealer (ex. P-9).

iii) The statements given by Sri B.V.Ramana Murthy, Proprieter, Sri Sai Enterprises, Amadalavalasa(ex. P-12) and Sri Bhogi Satyanarayana, Proprietor, Kranthi Enterprises (ex. P-13) reveal that the A.O. plays the crucial role in identification of beneficiary & allocation of business to the Drip/Sprinkler irrigation Company, thus deciding the business turn-over. Hence the contention of the Charged Officer that the role of Charged Officer is marginal may be rejected.

Thus it was differred with the findings of the I.A., and both the charges may have to be held **as proved against the Charged Officer "**

5. In the ref. 9th read above, communicating the I.O's report along with the disagreement factors thereon, Sri E.V. Ramana Murthy (now rtd) as JDA was directed to submit his written representation if any thereon. In the ref. 10th read above, Sri E.V. Ramana Murthy, has submitted his explanation, explaining his version on the disagreement factors on the findings of the I.A. has requested to drop further action in the matter. The Government, after careful examination of the matter with reference to the material on record, observed that the Charged officer has not submitted any new grounds for consideration and decided the charges framed against him are held proved, provisionally decided to impose a penalty of 20% cut in pension against Sri E.V. Ramanamurthy, Ex.MAO and now retired as JDA, Srikakulam District. Under rule-9 of A.P.R.P. Rules, 1980.

6. In the ref. 11th read above a S.C.N. was issued calling his explanation why should not impose the said punishment. In the ref. 12th read above the C.O. has submitted his explanation denying the proposed punishment and requested to drop further action against him. The Government have further examined and observed that the said representation has not convinced as there are no new grounds for consideration.

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Therefore, the Govt have decided to confirm the above punishment of imposition of 20% cut in pension permanently on the lapses committed by him and obtained the concurrence of the APPSC in the reference 13th read above.

7. The Government after careful examination entire issue and hereby decided and imposed withholding of 20% cut in pension permanently on Sri E.V. Ramana Murthy, Ex.MAO Amudalavalasa and now retired as Joint Director of Agriculture, Srikakulam

8. The Director of Agriculture, A.P., Guntur shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B.RAJSEKHAR
SPECIAL CHEIF SECRETARY TO GOVERNMENT (FAC)

To
The individual concerned through the Director of Agriculture, A.P., Guntur
The Director of Agriculture, A.P., Guntur.
Copy to:-
The A.G.A.P., Hyderabad.
The Secretary, APPSC, Hyderabad.
The Secretary to APVC, Secretariat Buildings
SF/SCs.

//FORWARDED BY ORDER//

SECTION OFFICER